

ENTERED

April 19, 2022

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISIONCIPRIANO GARCIA on Behalf of Himself §
and on Behalf of All Others Similarly §
Situating, §*Plaintiffs,* §

v. §

CIVIL ACTION NO. 1:22-CV-00006

AHTNA SUPPORT AND TRAINING §
SERVICES, LLC, §*Defendant.* §**JOINT STIPULATION FOR COLLECTIVE ACTION CERTIFICATION UNDER
THE FAIR LABOR STANDARDS ACT AND NOTICE TO COLLECTIVE MEMBERS**

Plaintiff Cipriano Garcia, on behalf of himself and all others similarly situated (“Plaintiff”), and Defendant Ahtna Support and Training Services, LLC (“Ahtna”) (collectively the “Parties”) hereby file this Stipulation for Collective Action Certification under the Fair Labor Standards Act and Notice to Collective Members and request Court approval of such stipulation by signing below in the space provided.

I.

Under the Fair Labor Standards Act (“FLSA”), courts have the authority to authorize notice to employees and to certify cases as collective actions. *Hoffman-La Roche, Inc. v. Sperling*, 493 U.S. 165 (1989); *Swales v. KLLM Transport Servs., LLC*, 985 F.3d 430 (5th Cir. 2021). It is hereby agreed that Ahtna will consent to this Court certifying this matter as a collective action under the FLSA, 29 U.S.C. § 216(b) for all claims related to alleged pre-shift work asserted by Plaintiff in the Complaint. (See Dkt. 1 at ¶¶ 29-64). The Collective Members shall consist of the following:

All current and former detention officers employed by Ahtna for at least one week during the three year period prior to the date the Court authorizes notice to the present.

Expressly excluded from this stipulation is any claim for an alleged automatic meal deduction and any claims other than those related to alleged pre-shift work asserted by Plaintiff in the Complaint. Further, by agreeing to this stipulation and collective definition, Ahtna is not limiting or waiving any defenses, including but not limited to that it is not liable for all or part of any alleged damages that Plaintiff or the opt-in Plaintiffs claim to have incurred during this time period. Moreover, Ahtna does not waive its rights to argue that any other lawsuit against it under the FLSA or any similar state or local law is not properly maintained as a collective action, and that Ahtna's detention officers are not "similarly situated" for purposes of any such subsequent matter.

The Parties stipulate that Don Foty of Hodges & Foty, LLP shall serve as counsel for the Collective Members and that Cipriano Garcia shall serve as the representative for the Collective Members. The Parties stipulate that within **twenty one (21) days** of the Court approving this stipulation by signing below, Ahtna shall provide to Plaintiff's Counsel the following information as to each of the Collective Members, to the extent Ahtna has such information in its possession: (1) name, (2) beginning date of employment; (3) ending date of employment (if applicable); (4) last known home address; (5) last known personal telephone number; and (6) last known personal email address. Ahtna shall provide such information in a computer-readable format, such as a Microsoft Excel Spreadsheet. To the extent Ahtna does not maintain email addresses or telephone numbers, Plaintiff's Counsel shall endeavor to identify the email addresses for the Collective Members.

The Parties stipulate that Plaintiff's Counsel shall transmit the agreed Notice of Rights and Consent Form, attached as "Exhibit A," to the Collective Members via first class mail, as well as via text and electronic mail, using the text of the E-Mail and Text Message Notice attached in "Exhibit A," within **fourteen (14) days** of receiving the list of Collective Members from Ahtna. Plaintiff's Counsel shall inform Ahtna's counsel of the date on which such Notice and Consent Form is sent. The Collective Members shall be allowed to execute either a hard copy of the consent form or an

electronic copy of the Consent Form by DocuSign. The Parties agree that the putative opt-in plaintiffs will have forty-five (45) days from the date of the mailing of the Notice and Consent forms by Plaintiff's Counsel to file consents with the Court.

SIGNED on _____ April 19 _____, 2022.

Fernando Rodriguez, Jr.
JUDGE PRESIDING

Agreed as to Form and Substance by:

/s/ Don J. Foty

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Attorney for Defendant

**NOTICE TO
POTENTIAL COLLECTIVE ACTION MEMBERS**

TO: All current and former detention officers employed by Ahtna for at least one week from _____ to the present.

RE: Overtime lawsuit against Ahtna Support and Training Services, LLC

Civil Action Number: 1:22-CV-00006; *Cipriano Garcia, et al. v. Ahtna Support and Training Services, LLC*, pending before the United States District Court for the Southern District of Texas

This Notice is to inform you of a collective action lawsuit alleging violations of the Fair Labor Standards Act ("FLSA"). The United States District Court for the Southern District of Texas has not yet determined whether any such violations have occurred, but has authorized the mailing of this notice for the sole purpose of affording you the opportunity to join this lawsuit.

1. Why Are You Getting this Notice?

You are getting this notice because records indicate you worked as a detention officer for Ahtna Support and Training Services, LLC ("Ahtna") at some time since _____. A lawsuit was brought against Ahtna alleging that you and other detention officers are owed unpaid overtime wages under federal law.

2. What is this lawsuit about?

Cipriano Garcia, an Ahtna employee, brought this lawsuit alleging that Ahtna violated the federal Fair Labor Standards Act by not including the time detention officers spent completing a security screening and gathering their equipment prior to the start of their shifts in calculating the overtime hours Garcia and other Ahtna detention officers worked in any workweek. The lawsuit is seeking back pay and liquidated damages from Ahtna, as well as costs and attorney's fees. Ahtna contends that it properly calculated your overtime wages, denies that it has violated the law, and denies that it owes any of the back pay, damages, costs or attorney's fees that are sought. The Court has not yet decided whether Ahtna has done anything wrong or whether this case will proceed to trial. However, you have the choice to assert your legal rights in this case.

3. Your right to join this case

If you fit the definition above, you may join this case (that is, you may "opt-in") by completing the attached "Consent to Join Collective Action" form and returning it to Plaintiff's Counsel by mailing it to the following address:

INSERT ADDRESS OF PLAINTIFFS' COUNSEL OR CLASS ADMINISTRATOR

You may also return your form by faxing it to 713-523-1116 or completing the form online at _____. The form must be received by Plaintiff's Counsel by _____ (insert date 45 days after mailing). If you fail to timely return the Consent to Join Collective Action, you may not be able to participate in this lawsuit.

EXHIBIT "A"

4. What are your options?

If you choose to join this case, you will become a party to the lawsuit. You may be eligible to participate in a settlement for alleged unpaid overtime wages, if any such settlement is reached. Also, you will be bound by any judgment ultimately entered in this case, whether it is favorable or unfavorable. If you choose to join this case, you may be required to answer written questions, produce documents, and/or have your testimony taken by Ahtna's counsel in a deposition or at trial.

If you do not wish to be a part of the lawsuit, you do not need to do anything. If you do not join this case, you will not be able to participate in any settlement regarding the claim for unpaid overtime wages in this case, if any such settlement is reached. If you do not join the lawsuit, you will not be part of the case and will not be bound by or affected by the result, whether favorable or unfavorable. Your decision not to join this case will not affect your right to bring a similar case on your own at a future time. However, claims under the Fair Labor Standards Act must be brought within two (2) years of the date the claim accrues, unless the employer's violation of the law was "willful," in which case the claim must be brought within three (3) years. If you do not join this case, you have the right to hire your own attorney and bring a separate case, if you so choose. However, if you join this case, you will be represented by the Plaintiffs' Counsel in this case.

The attorneys for the Plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorney's fee. If there is a recovery, the attorney for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class.

5. No retaliation permitted.

The law prohibits retaliation against employees for exercising their rights under the FLSA. Therefore, Ahtna is prohibited from taking any adverse action against you for joining this case lawsuit such as terminating your employment, reducing your hours, pay or benefits. Similarly, you will not be discriminated or retaliated against for choosing not to join this case.

6. How Can You Get More Information?

You can get more information by calling the Plaintiffs' attorneys. These attorneys can be reached at 713-523-0001.

*****THIS IS NOT AN ADVERTISEMENT FROM A LAWYER*****

**CONSENT TO JOIN COLLECTIVE ACTION AND BE
REPRESENTED BY HODGES & FOTY, LLP**

- i I, _____(print name), consent to join the lawsuit against Ahtna Support & Training Services, LLC seeking damages for unpaid overtime wages under the FLSA.
- i I worked as a detention officer for Ahtna within the three years prior to the date of my signature below.
- i I authorize the named Plaintiff to file and prosecute the above referenced matter in my name, and on my behalf, and designate the named Plaintiff and Plaintiff's Counsel to make decisions on my behalf concerning the litigation, including negotiating a resolution of my claims, and I understand I will be bound by such decisions.
- i I agree to be represented by Hodges & Foty, LLP, counsel for the named Plaintiff.
- i If my consent form is stricken for any reason, I authorize Plaintiff's Counsel to use this consent form to file my claim in a separate or related action.

Date: _____ Signature: _____

Information below this line will not be filed with the Court:

Start and end dates of work: _____to_____

Address: _____

City: _____

State: _____

Phone: _____

Alternative
Phone: _____

Email: _____

Supervisor: _____

E-MAIL TO POTENTIAL COLLECTIVE ACTION MEMBERS

Subject: Notice of overtime lawsuit against Ahtna Support and Training Services, LLC

A court has allowed this message to be sent to you because you have been identified as an individual who was employed by Ahtna Support and Training Services, LLC (Ahtna) as a Detention Officer in the last three years. This Notice is regarding a collective action lawsuit against Ahtna alleging violations of the Fair Labor Standards Act (FLSA) related to the payment of overtime wages for certain of Ahtna's detention officers. Ahtna contends that it properly paid its detention officers all overtime wages, denies that it has violated the law, and denies that it owes any of the damages that are sought in the lawsuit. The Court has not decided whether Ahtna has done anything wrong and this Notice is just to inform you of rights.

The attached Notice explains the steps you need to take if you want to join. If you do not wish to be a part of the lawsuit, you do not need to do anything.

If you have any questions, please feel free to contact the Plaintiff's attorneys as indicated in the Notice.

[Signature Block]

TEXT MESSAGE TO POTENTIAL COLLECTIVE ACTION MEMBERS

A court has allowed this message to be sent to you because you have been identified as an individual who was employed by Ahtna Support and Training Services, LLC (“Ahtna”) as a Detention Officer in the last three years. This message is regarding a collective action lawsuit against Ahtna related to the payment of overtime wages for certain Ahtna detention officers. Ahtna contends that it properly paid all of its detention officers all overtime wages and denies that it has violated the law. The Court has not made a decision on whether Ahtna has done anything wrong and the Notice is just to inform you of your rights. Please click on the following link to review the Notice about your right to participate. [INSERT LINK]